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6 **IN THE UNITED STATES DISTRICT COURT**
7 **FOR THE DISTRICT OF ARIZONA**
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9 Angel Salgado,

10 Plaintiff,

11 v.

12 Synergy Payment Solutions Incorporated, et
13 al.,

14 Defendants.

No. CV-24-00523-PHX-DWL

ORDER

15 The Court previously granted Plaintiff's motion for default judgment, concluding
16 that Plaintiff should be awarded \$4,305 in damages against Synergy Payment Solutions
17 Inc., Atrium Bancard Solutions Inc., Mainstream Payment Systems LLC, Sean Mecham
18 and Leah Mecham, Jeanette Wolven and John Doe Wolven, and Luis Romero and Holly
19 Romero (collectively, "Defendants"), jointly and severally, pursuant to Plaintiff's claim
20 against Defendants under the Arizona Minimum Wage Act ("AMWA"). (Doc. 21.) In the
21 same order, the Court authorized Plaintiff to file a motion for attorneys' fees. (*Id.* at 8.)

22 Plaintiff has now done so. (Doc. 23.) Plaintiff seeks \$18,556.50 in attorneys' fees
23 for the work performed to date (*i.e.*, 41.7 hours of work at an hourly rate of \$445) and
24 \$1,387.05 for out-of-pocket costs (*i.e.*, filing and service fees). (Doc. 23-4 [itemization].)
25 Additionally, Plaintiff seeks \$6,912.14 "in attorneys' fees and costs to be incurred in
26 potential collection efforts." (Doc. 23 at 5.)

27 The Court is satisfied by Plaintiff's showing that the amount of hours expended¹

28 ¹ Plaintiff provides the following explanation for the amount of hours expended,
which the Court accepts as reasonable: "Plaintiff's counsel acknowledge that the 41.7 hours

1 and counsel's hourly rate are reasonable, as is the request for \$1,387.05 in out-of-pocket
2 costs incurred to date.

3 The requested award of \$6,912.14 for "attorneys' fees and costs to be incurred in
4 potential collection efforts" presents a closer issue. In a previous case, the Court
5 questioned whether "speculative costs not yet incurred could be permissible under the
6 relevant statutes." *Miller v. Four Peaks Logistics LLC*, 2024 WL 126134, *4 (D. Ariz.
7 2024). Other judges in this District have raised the same concern about the speculative
8 nature of such requests. *See, e.g., Ramos v. Probuilds LLC*, 2024 WL 1078078, *9 (D.
9 Ariz. 2024) ("Plaintiff's counsel cites several cases from this District in which anticipated
10 collection costs have been found to be reasonable, but Plaintiff does not show that such
11 anticipated costs are reasonable in this matter. . . . Although Defendants have not
12 responded in this matter, an award of collection costs is speculative. . . . Simply, recovery
13 of attorneys' fees and costs incurred in pursuit of collection of the Court's judgment is not
14 ripe.") (citations omitted); *Acosta v. Pindernation Holdings LLC*, 2023 WL 3184252, *3
15 (D. Ariz. 2023) ("Even if the court had authority to make such an award, Plaintiff proffers
16 no support for the projection of such expenses"); *Stamper v. Freebird Logistics Inc.*,
17 2022 WL 4448457, *4 (D. Ariz. 2022) ("While Defendant has not responded to the present
18 litigation, an award for collection efforts is too speculative. Other than stating Plaintiff
19 'will likely' have fees and costs associated with the collection efforts, Plaintiff did not
20 explain any efforts he plans to take. . . . Although the Court finds that the speculative
21 collection costs are unreasonable, this Order does not preclude Plaintiff from seeking
22 collection costs and, for that matter, future attorneys' fees, should they be incurred.").

23 In an effort to address those concerns, Plaintiff provides the following explanation

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25 they seek in this matter significantly exceeds the attorneys' fees they routinely seek on
26 default judgments before this Court. Normally, Plaintiff's counsel's attorneys' fees range
27 between about 15 and 20 total hours, and the lodestar they seek here more than doubles
28 that figure. This is not without reasonable justification in this particular matter. Contrary
to most of Plaintiff's counsel's default judgment situations, in this matter, Defendants
consistently engaged Plaintiff's counsel, whether via counsel or directly, with regard to the
merits of the case and settlement efforts. This led to Plaintiff's counsel having to expend
significant time and effort on a case that would have otherwise been routine." (Doc. 23 at
7.)

1 for the collection-fee request:

2 Since November 2019, Plaintiff's counsel has generally engaged the Parker
 3 Law Firm P.L.C. ("Parker Law") to assist them and their clients in efforts to
 4 collect on default judgments and judgments awarding attorneys' fees and
 5 costs. Per the agreement between Parker Law and Bendau Law, Parker Law
 6 charges a 25% contingency fee on all amounts recovered for Bendau Law.
 7 In addition, for each case for which Plaintiffs' counsel retains Parker Law,
 8 Parker Law requires Plaintiff's counsel to provide \$850 costs retainer before
 9 undertaking any collection efforts. Here, Plaintiff has been awarded a
 10 Judgment in the amount of \$4,305, and Plaintiff's counsel seeks an award of
 11 \$19,943.55, for a total of \$24,248.55. Assuming total judgments in the
 12 amount of \$24,248.55, in engaging Parker Law, Plaintiff and Plaintiff's
 13 counsel will be required to pay \$850 in a costs retainer, plus 25% of any
 14 recovery. Assuming Parker Law successfully recovers the full \$24,248.55,
 15 Parker Law's share will be \$6,062.14. Added to the \$850 initial outlay,
 16 Plaintiff and Plaintiff's counsel face the potential to incur \$6,912.14 in costs
 17 and fees in collecting on these judgments. Accordingly, Plaintiff and
 18 Plaintiff's counsel hereby request an additional \$6,912.14 in anticipated fees
 19 and costs associated with collection.

20 (Doc. 23 at 16.)

21 This explanation, supported by documentation (Docs. 23-8, 23-9), is sufficient to
 22 alleviate any concern that the requested collection costs are speculative. *Alvarez v.*
 23 *Talaveras Renovations LLC*, 2024 WL 1195462 (D. Ariz. 2024) (reaching the same
 24 conclusion); *Tejeda v. Boston Market Corporation et al*, 2:23-cv-01497-JJT (D. Ariz.
 25 2024) Doc. 22 ("Counsel's provision of the services agreement with his chosen collections
 26 law firm addresses the Court's concern that such an award would otherwise be
 27 speculative.").²

28 The remaining question is whether an award for post-judgment collection costs—
 even when it can be mathematically calculated and is not speculative—is statutorily
 authorized. The statute under which Plaintiff prevailed, AMWA, provides that a
 "prevailing plaintiff shall be entitled to reasonable attorney's fees and costs of suit." A.R.S.
 § 23-364(G). Although the Court has questioned in past orders whether that statutory
 language is broad enough to encompass an award of costs and attorneys' fees incurred

² To be clear, the Court does not find that a prevailing plaintiff is always entitled to
 an award of anticipated collection fees and costs. The conclusion reached here is based on
 the facts of this case and the specific showing that Plaintiff made as to why collection will
 not occur absent the outlay of the modest fees and costs at issue.

1 during post-judgment collection efforts,³ upon reflection that skepticism appears to have
 2 been unwarranted. Courts have concluded that similar fee-shifting language in analogous
 3 federal statutes should be construed to encompass reasonable attorneys’ fees and costs
 4 incurred during post-judgment collection efforts. *See, e.g., Sky Cable, LLC v. DIRECTV,*
 5 *Inc.*, 23 F.4th 313, 318-19 (4th Cir. 2022) (“We conclude that attorneys’ fees and expenses
 6 incurred while pursuing postjudgment collection litigation . . . qualify for compensation
 7 under the mandatory fee-shifting provision of the [Federal Communications] Act. In other
 8 contexts, we have held that when a statute contains a fee-shifting provision, attorneys’ fees
 9 for postjudgment enforcement action are appropriate. . . . Other circuit courts have
 10 concluded that attorneys’ fees are appropriate for postjudgment collection and enforcement
 11 efforts under fee-shifting statutes that . . . are mandatory. We find this case law to be
 12 persuasive because it would make no more sense to deny attorneys’ fees for efforts to
 13 collect a judgment than it would to deny them for efforts to defend a judgment on appeal.
 14 This is especially true when, as here, the statute does not make a distinction between
 15 prevailing attorneys’ fees accrued in obtaining the initial judgment, and those expended
 16 after the trial in collecting that judgment and defending it on appeal. And it is compelling
 17 that other courts find fee-shifting provisions, like the one [here], to encourage citizen
 18 enforcement of important federal policies.”) (cleaned up); *Shaw v. AAA Eng’g & Drafting,*
 19 *Inc.*, 213 F.3d 538, 544-45 (10th Cir. 2000) (concluding that “attorney’s fees can be
 20 awarded under the [False Claims Act] for post-judgment collection activities” and noting
 21 that “[c]ourts interpreting the Civil Rights Attorney’s Fees Awards Act and the citizen suit
 22 attorney’s fee provision of the Clean Air Act have consistently allowed attorney’s fees for
 23 post-judgment enforcement and collection activities”); *Nelson v. PJ Cheese*, 2023 WL
 24 4535860, *1-2 & n.1 (N.D. Ga. 2023) (concluding that “[u]nder the FLSA, a prevailing
 25 party is entitled to an award of attorney’s fees for post-judgment collection efforts” and


26 ³ *Miller*, 2024 WL 126134 at *4 (“[T]he statutory language indicates that a prevailing
 27 plaintiff is entitled to ‘costs of suit,’ A.R.S. § 23-364(G), and post-lawsuit efforts to collect
 28 on a judgment are not part of the suit itself.”). *See also Ramos*, 2024 WL 1078078 at *9
 (“Further, Plaintiff’s counsel does not demonstrate that anticipated collection costs are
 recoverable under the fee shifting provisions of FLSA or the AMWA.”).

1 noting that “[i]n cases involving other fee-shifting statutes, courts have concluded that fees
2 incurred in post-judgment collection efforts are recoverable”); *Van Dyke v. BTS Container*
3 *Serv., Inc.*, 2010 WL 56109, *1 (D. Or. 2010) (same). Finally, because the question
4 presented in this case is how to construe an Arizona statute, it is notable that Arizona courts
5 have seemed to voice agreement with the interpretive approach followed in those decisions.
6 *Cf. Nunez v. Interstate Corp. Sys., Inc.*, 799 P.2d 30, 31 (Ariz. Ct. App. 1990) (indicating
7 that the fee-shifting provision of the Federal Debt Collection Practices Act “provides
8 statutory authority not only to award fees in the initial action but also in any action, such
9 as this one, to enforce the judgment obtained in that initial action”).

10 Accordingly,

11 **IT IS ORDERED** that Plaintiff’s motion for attorneys’ fees and costs (Doc. 23) is
12 **granted**. Plaintiff is awarded **\$26,855.69** in attorneys’ fees and costs against Synergy
13 Payment Solutions Inc., Atrium Bancard Solutions Inc., Mainstream Payment Systems
14 LLC, Sean Mecham and Leah Mecham, Jeanette Wolven and John Doe Wolven, and Luis
15 Romero and Holly Romero (collectively, “Defendants”), jointly and severally.

16 Dated this 12th day of November, 2024.

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21 Dominic W. Lanza
22 United States District Judge
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